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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Butte)

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In re N.N., a Person Coming Under the  
Juvenile Court Law.

C068228

BUTTE COUNTY DEPARTMENT OF EMPLOYMENT  
AND SOCIAL SERVICES,

(Super. Ct. No.  
J32000)

Plaintiff and Respondent,

v.

S.N.,

Defendant and Appellant.

Appellant S.N., the mother of the minor N.N., appeals from the juvenile court's orders terminating her parental rights. (Welf. & Inst. Code, §§ 395, 366.26.) She contends the Butte County Department of Employment and Social Services (DESS) and the juvenile court did not comply with the notice requirements of the Indian Child Welfare Act. (ICWA; 25 U.S.C. § 1901 et seq.) We affirm.

## **BACKGROUND**

Since mother's sole contention concerns ICWA notification, we offer an abbreviated summary of the dependency's factual and procedural background.

In March 2008 DESS filed a dependency action alleging jurisdiction over the minor and his siblings, D.N. and S.N.<sup>1</sup> The petition alleged that the minors were at risk of serious harm because mother and the father, K.G.,<sup>2</sup> had longstanding substance abuse problems that periodically prevented them from caring for their children. It was filed after an incident in March 2008, when mother was arrested for being under the influence of a controlled substance and father was intoxicated when a social worker brought the children to him.

Mother's extensive child welfare history includes a prior dependency action involving the minor and his siblings. The prior petition was sustained in July 2005, and the children were removed from the parents' custody in August 2005. They were returned to mother's custody under a family maintenance plan in January 2006.

The juvenile court sustained the instant petition in March 2008 after the parents waived their trial rights as to jurisdiction. The juvenile court ordered reunification services for the parents in June 2008.

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<sup>1</sup> D.N. and S.N. are not parties to this appeal.

<sup>2</sup> K.G. is not a party to this appeal.

The juvenile court terminated reunification services and set a selection and implementation hearing in April 2009. The selection and implementation hearing was continued and ultimately taken off calendar while DESS searched for an adoptive home. The minor moved into a prospective adoptive home in June 2010; he developed substantial emotional ties to the potential adoptive parents, who were committed to adopting him.

At the selection and implementation hearing, mother's counsel informed the juvenile court that he had not had any recent contact with her. The juvenile court terminated parental rights and ordered a permanent plan of adoption.

#### **DISCUSSION**

Mother contends there was a failure to comply with the notice requirements of the ICWA. We disagree.

The ICWA protects the interests of Indian children and promotes the stability and security of Indian tribes by establishing minimum standards for, and permitting tribal participation in, dependency actions. (25 U.S.C. §§ 1901, 1902, 1903(1), 1911(c), 1912.) These interests are protected by providing notice of pending proceedings that could affect the status of the Indian children with respect to the tribe. Notice to the Indian tribe is triggered if the court "knows or has reason to know that an Indian child is involved." (25 U.S.C. § 1912(a); Welf. & Inst. Code, § 224.2; Cal. Rules of Court, rule 5.481(b).)

The juvenile court asked mother at the March 2008 detention hearing whether she had any "Native American ancestry." Mother

replied: "I'm not sure. My grandmother said I had Indian ancestry, but I haven't been able to check it out and to find out that information. I'm not sure." Counsel for DESS told the court: "Your Honor, the Court on January 5th, 2006 ruled that the Indian [Child] Welfare Act did not apply to these children." The juvenile court said, "Well, I will make that finding. [¶] If you have any information, provide that information." Counsel for DESS told mother to give any additional information to the social worker, and she agreed to do so.

That same day, mother filled out and signed an ICWA-020 form, checking the box by the line stating "I may have Indian ancestry." Mother did not fill out the part of the form for listing any tribe or band to which she was claiming heritage. She also left blank the parts of the form regarding her parents' and grandparents' Indian heritage. The juvenile court made no further ruling concerning the ICWA.

Mother contends DESS's representation regarding the court's ICWA ruling in the prior dependency proceeding was insufficient justification for the juvenile court to find that the ICWA did not apply in the present case. Mother notes the record contains no documentation regarding the prior ruling. Since mother represented she may have Indian heritage and DESS's representation regarding ICWA compliance at the prior dependency was allegedly "insufficient to establish proper compliance with the ICWA in the current proceeding," mother concludes that the orders terminating parental rights must be reversed and the case

remanded for additional inquiry into her claim of Indian heritage.

Mother's contention founders on the mistaken assumption that her claim of Indian heritage was sufficient to trigger the notice and inquiry provisions of the ICWA. Her claim on Indian heritage consisted of two components: first, a hearsay statement from the maternal great-grandmother regarding an unspecified claim of Indian ancestry, which mother did not necessarily believe and had not verified; and second, mother's statement on a form that she might have Indian ancestry, with the tribe unknown and no evidence of membership. These claims are too vague and insubstantial to trigger notice under the ICWA. (See *In re J.D.* (2010) 189 Cal.App.4th 118, 125 [paternal grandmother indicating possible Indian ancestry related by her grandmother, tribe unknown, notice not required]; *In re O.K.* (2003) 106 Cal.App.4th 152, 154, 157 [grandmother's saying children may have Indian heritage, no known tribe, "too vague and speculative to give the juvenile court any reason to believe the minors might be Indian children"]; *In re Levi U.* (2000) 78 Cal.App.4th 191, 194, 198 [paternal grandmother's statement that there might be Indian ancestry on her mother's side, tribe unknown, where her mother was deceased and born on a reservation was "no basis whatever for continuing to assume the minor must be an Indian child within the meaning of the [ICWA]".].)

On these facts, no notice under the ICWA was required. Accordingly, the juvenile court did not err in finding the ICWA did not apply.

**DISPOSITION**

The orders terminating parental rights are affirmed.

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RAYE, P. J.

We concur:

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HULL, J.

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ROBIE, J.